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LEGISLATIVE SUPPLEMENT

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PART I**HARYANA GOVERNMENT****LAW AND LEGISLATIVE DEPARTMENT****Notification**

The 26th September, 2016

No. Leg. 32/2016.—The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 16th September, 2016 and is hereby published for General information:—

HARYANA ACT NO. 28 of 2016**THE HARYANA TAX ON LUXURIES (AMENDMENT) ACT, 2016**

AN

ACT

further to amend the Haryana Tax on Luxuries Act, 2007.

Be it enacted by the Legislature of the State of Haryana in the Sixty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Haryana Tax on Luxuries (Amendment) Act, 2016.
2. In section 2 of the Haryana Tax on Luxuries Act, 2007 (hereinafter called the principal Act), after clause (g), the following clause shall be inserted, namely:—

‘(gg) “electronic governance” means the use of electronic medium for,—

- (i) filing of any form, return, annexure, application, declaration, certificate, memorandum of appeal, communication, intimation or any other document;
- (ii) creation, retention or preservation of records;
- (iii) issue or grant of any form including statutory declaration form, order, notice, communication, intimation or certificate; and
- (iv) receipt of tax, interest, penalty or any other payment or refund of the same through Government treasury or banks authorized by the Government treasury.’.

3. In section 8 of the principal Act,—

- (i) in sub-section (1), for the sign “:” existing at the end, the sign “.” shall be substituted; and
- (ii) after sub-section (1), the existing proviso shall be omitted.

4. In section 9 of the principal Act,—

- (i) in sub-section (1), for the sign “:” existing at the end, the sign “.” shall be substituted; and
- (ii) after sub-section (1), the existing proviso shall be omitted.

5. After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. Payment of lump sum in lieu of tax.—(1) The State Government may in public interest and subject to such conditions, as it may deem fit, accept from any class of proprietors, in lieu of tax payable, for any period, by way of composition, a lump sum linked with some suitable measures of extent of business, or calculated at a flat rate of gross receipts of business with or without any deduction therefrom, to be determined by the State Government. The lump sum amount shall be paid at such intervals and in such manner, as may be prescribed. The State Government for the purposes of this Act, in respect of such class of proprietors may, prescribe, simplified maintenance of accounts and filing of returns which shall remain in force during the period of such composition.

(2) A proprietor in whose case composition under sub-section (1) is made and is in force may, subject to such restrictions and conditions, as may be prescribed, opt out of such composition by making an application containing the particulars in the prescribed manner, to the assessing authority and in case the application is in order, such composition shall cease to have effect on the expiry of such period.”.

Short title.

Amendment of section 2 of Haryana Act 23 of 2007.

Amendment of section 8 of Haryana Act 23 of 2007.

Amendment of section 9 of Haryana Act 23 of 2007.

Insertion of section 10A of Haryana Act 23 of 2007.

Amendment of section 11 of Haryana Act 23 of 2007.

6. In section 11 of the principal Act, for sub-sections (7), (8) and (9), the following sub-sections shall be substituted, namely:-

“(7) The assessing authority, on information furnished to him under section 24, shall by an order, amend or cancel any certificate of registration and such amendment or cancellation shall be effective from the date, as may be prescribed.

(8) In case-

(a) any business in respect of which certificate has been granted, has been discontinued; or

(b) the liability to pay tax of any proprietor ceases under the Act,

the assessing authority shall, after giving a reasonable opportunity of being heard to the affected person, by an order, cancel the certificate of registration.

(9) An officer not below the rank of Deputy Excise and Taxation Commissioner incharge of the district may, in such manner, subject to such restrictions and conditions, as may be prescribed, cancel the certificate of registration.

Amendment of section 13 of Haryana Act 23 of 2007.

7. In section 13 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Notwithstanding anything contained in section 14, every proprietor liable to pay tax under this Act or such proprietor, as may be required so to do by the assessing authority by notice in the prescribed manner, shall furnish to the assessing authority, within a period of sixty days of the expiry of the year, a return in such form, as may be prescribed.”.

Amendment of section 14 of Haryana Act 23 of 2007.

8. In section 14 of the principal Act,-

(i) in the marginal heading, the words “in advance” shall be omitted; and

(ii) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Every proprietor liable to pay tax under this Act or such proprietor as may be required so to do by the assessing authority, by notice in the prescribed manner, shall furnish to the assessing authority within a period of fifteen days of the expiry of a month, a statement in such form as may be prescribed, showing therein the whole amount of tax due from him according to such statement.”.

Amendment of section 33 of Haryana Act 23 of 2007.

9. In section 33 of the principal Act,-

(i) in the marginal heading, for the words “Rectification of mistake”, the words “Rectification of clerical mistakes” shall be substituted; and

(ii) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Any assessing authority or appellate authority may, at any time, within a period of two years from the date of supply of copy of the order passed by it in any case, rectify any clerical or arithmetical mistake apparent from the record of the case:

Provided that no order shall be passed under this section without giving a person adversely affected thereby, a reasonable opportunity of being heard.”.

Amendment of section 34 of Haryana Act 23 of 2007.

10. For section 34 of the principal Act, the following section shall be substituted, namely:-

“Refund of excess tax, penalty and interest.- (1) The assessing authority shall refund to a proprietor the amount of tax including the amount of penalty and interest paid by him in excess of the amount due from him under this Act and such refund may be made by way of refund order or by way of adjustment order; provided that refund can be claimed only by a person who has actually suffered the incidence of tax and the burden of proving the incidence of tax so suffered, shall be on him.

(2) Where any amount refundable to any person under an order made under any provisions of this Act is not refunded within a period of ninety days of the date of such order, the assessing authority shall pay simple interest at the rate of twelve percent per annum on the said amount from the date immediately following the expiry of the said ninety days to the day of the refund:

Provided that the interest shall be calculated on the balance of the amount remaining after adjusting out of refundable amount, any tax, penalty or other amount due under this Act, for any year by a person on the date from which such interest is calculable.

Explanation.—If the delay in granting the refund within the aforesaid period of ninety days is attributable to the person to whom the refund is payable, the period of such delay shall be excluded for the purpose of calculation of interest.

(3) Notwithstanding anything contained in sub-section (1) where an order giving rise to refund is the subject matter of an appeal or any further proceedings and the assessing authority is of the opinion that the grant of the refund is likely to adversely affect the state revenue, the said officer may, with the previous approval of the Commissioner, withhold the refund till such time, as the Commissioner may determine.”.

11. After section 40 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
section 40A and
40B in Haryana
Act 23 of 2007.

“40A. Implementation of electronic governance.—(1) Notwithstanding anything contained in this Act or the rules framed thereunder, the Commissioner may, by an order, with the approval of the State Government, implement electronic governance for carrying out the various provisions of this Act and the rules framed thereunder.

(2) Where an order has been passed under sub-section (1), the Commissioner may, amend or introduce forms for returns, applications, declarations, annexures, memorandum of appeal, report of audit or any other document which is required to be submitted electronically.

(3) The Commissioner may, for reasons, to be recorded in writing, extend or reduce the period prescribed under this Act and the rules framed thereunder for electronic governance.

“40B. Automation.—(1) The provisions contained in the Information Technology Act, 2000 (Central Act 21 of 2000), and the rules framed and directions given thereunder, including the provisions relating to digital signatures, electronic governance, attribution, acknowledgment and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates, shall, apply to the procedures under this Act and rules framed thereunder for electronic governance.

(2) Where any return, annexure, report of audit, document, application, form including statutory declaration form, certificate, communication or intimation of a proprietor is received electronically through the official website, such return, annexure, report of audit, document, application, form including statutory declaration form, certificate, communication or intimation shall be deemed to have been submitted by such proprietor with his consent.

(3) Where a certificate of registration, order, form including statutory declaration, certificate, notice and communication is prepared on any automated data processing system and is sent to any proprietor, then, the said certificate of registration, order, form including statutory declaration, certificate, notice or communication shall not be required to be personally signed by the Commissioner or any other officer subordinate to him, and the certificate of registration, order, form including statutory declaration, certificate, notice or communication shall not be deemed to be invalid only on the ground that it has not been personally signed by the Commissioner or any other officer subordinate to him.”.

KULDIP JAIN,
Secretary to Government Haryana,
Law and Legislative Department.